

Boyd, Jocelyn

255209

From: CCMDON@aol.com
Sent: Saturday, February 21, 2015 4:05 PM
To: Boyd, Jocelyn
Cc: ralphnorman@schouse.gov; rwhayes@comporium.net; Morgan, Willie; Nelson, Jeff; Edwards, Nanette; Hipp, Dawn
Subject: Request for Rehearing

RECEIVED

FEB 23 2015

PSC SC
MAIL/DMS

To: Ms. Jocelyn Boyd
Chief Clerk
Public Service Commission of South Carolina (PSC)
Attn: Clerk's Office
P. O. Drawer 11649
Columbia, SC 29211

Subject: The subject of this letter is a request for reinstatement of my 1/25/2015 Request for Rehearing of my earlier request (12/21/14) to have the arbitrary time limit of three (3) minutes on public testimony currently being required during Public Hearings by the Public Service Commission of South Carolina (PSC) extended or eliminated. My original request was discussed by the PSC on 01/07/15, and was the subject of PSC Order No. 2015-27 on Docket No. 2014-399-WS. This Order denied my request. This request is made under the terms and provisions of the SC Statute referenced below.

Reference: South Carolina Code of Laws, Title 58, Chapter 5, Article 3, Section 58-5-330. Rehearing by Commission.

Dear Ms. Boyd,

Please accept this application for Rehearing being made as provided for in the South Carolina Code of Laws, Title 58, Chapter 5, Article 3, Section 58-5-330 titled "Rehearing by Commission" referenced above.

The matter which I am now applying to have reheard is the discussion which took place at the PSC meeting held on 2/11/2015 which was a discussion of my original petition for "Rehearing by Commission" which was filed with you on 1/25/2015. (Please see "Previous Request" below.) That discussion resulted in my original request for rehearing being denied by PSC Order No. 2015-125 dated February 11, 2015 and referring to Docket No. 2014-399-WS. I consider the reasons given for the denial to be the result of a mis-interpretation and mis-application of the law, the combination of which I believe render the Order unjust and unwarranted and, therefore, illegal.

Specifically, the law states that "... any party to the action or proceeding may apply for a rehearing..." I was and am most certainly a "party to the action" as are all York County customers of Utilities, Inc. and Carolina Water Service, Inc. as well as the PSC, the ORS, the individual Commissioners, the Commission staff, members of the legislature, etc. I, therefore, most certainly "have the legal standing to seek a rehearing of (the PSC) ruling".

In an earlier communication (Order No. 2015-27), the PSC recommended that I "contact and work with the Office of Regulatory Staff in this matter..." In fact, it was a senior member of the ORS staff

that subsequently recommended using the provisions of the "Rehearing by Commission" statute to bring about a reconsideration of the request to extend the arbitrary three (3) minute testimony limit..

In my opinion, the PSC, exceeded their authority and preempted the exclusive authority of the legislature to make legislation by, in essence, creating legislation which changed "party" to "party of record". The latter is clearly a minor subcategory of the former, and, therefore, not in keeping with the intent or letter of the law. While this may serve the purposes of the Commission, such action is not, in my opinion, legal.

Since, by definition, I am a party to the action, (i.e. one participating in and/or affected by the action), I can and did apply for rehearing which was summarily denied without even consideration of the points made in the application. In this circumstance, this could only have occurred as a result of the PSC overstepping its authority.

Therefore, I, once again, request a rehearing in keeping with and responsive to the original "Request for Rehearing". (Please see "Previous Request" below.

Thank you for your attention and consideration.

Donald G. "Don" Long
14 Sunrise Point Court
Lake Wylie, SC 29710
803-831-2455
ccmdon@aol.com

PREVIOUS REQUEST:

To: Ms. Jocelyn Boyd
Chief Clerk
Public Service Commission of South Carolina (PSC)
Attn: Clerk's Office
P. O. Drawer 11649
Columbia, SC 29211

Subject: The subject of this letter is a Request for Rehearing of my earlier request (12/21/14) to have the arbitrary time limit of three (3) minutes on public testimony currently being required during Public Hearings by the Public Service Commission of South Carolina (PSC) extended or eliminated. My original request was discussed by the PSC on 01/07/15, and was the subject of PSC Order No. 2015-27 on Docket No. 2014-399-WS. This Order denied my request. This request is made under the terms and provisions of the SC Statute referenced below.

Reference: South Carolina Code of Laws, Title 58, Chapter 5, Article 3, Section 58-5-330. Rehearing by Commission.

Dear Ms. Boyd,

Please accept this application for Rehearing being made as provided for in the referenced South Carolina Code of Laws, Title 58, Chapter 5, Article 3, Section 58-5-330 titled "Rehearing by Commission".

The matter which I am applying to have reheard is outlined in the "Subject" of this letter, to wit: Consideration and discussion of my request of 12/21/14 at a PSC meeting held on 01/07/15 resulting in a Commission Action detailed in Commission Order No. 2015-27 within Docket No. 2014-399-WS. This Commission Order denied my request. I consider the reasons given for the denial to be unsubstantial, incomplete, and erroneous which I believe render the Order unjust and unwarranted and, therefore, illegal.

With respect to my Application for Rehearing:

1.) Basic Premise: I, as the requestor, was not informed by any means outside the agenda that my request was to be considered at the 01/07/15 meeting of the PSC. Also, I was not provided with the agenda of the meeting prior to the meeting by any of the several potential means of communication. I believe both of these inactions render the Commission Action unjust and unwarranted.

2.) Lack of Appropriate Consideration: As to the denial action by the PSC, it appears that the following were not considered appropriately, if at all:

A.) Public Hearing Concept: A "Public Hearing", in my opinion, is provided by law, policy, and/or procedure for the purpose of allowing the "public" to be "heard" and to "hear". A "Public Hearing" gives regard to the public's opinions, concerns, support, rejection, desires, etc. relating to a matter potentially effecting their lives, properties, freedoms, restrictions, communities, rules and regulations, public services, etc., etc. As a practical matter, a three (3) minute limit on public testimony before the PSC, denies the public a reasonable and proper hearing on the matter at hand. In this regard, the "public" is both the general public and the public agency holding the hearing, not just the latter.

B.) Subject Complexity: The matter at hand - i.e. the merger of four (4) subsidiaries of Utilities, Inc. into a single entity to be known as "Carolina Water Service, Inc." - is a complex matter. It can't begin to be evaluated and/or discussed in three (3) minutes. It has many implications and probable results, both short-term and long-term. These, in turn, have substantial potential effects on the costs, property values, and levels of service of thousands of residents, customers of the public utilities involved, and taxpayers, both individual and corporate. Some of these potential and probable effects appear to be very negative and can run into millions of dollars of added unjustified cost to the public. To limit any and/or all of these interested public parties to having the PSC's attention for only three (3) minutes, is to abrogate and make ineffectual any input attempted to be provided by those interested public parties.

C.) Public Perception: I believe, from long experience with certain work of the PSC, that the PSC Commissioners are responsible, intelligent, experienced and hard-working public servants. I would, however, suggest the possibility that some members of the public may see policies such as this three (3) minute testimony limit as indicating that the Commission: 1.) really doesn't care much about what the public thinks; 2.) has the attitude "Don't confuse me with facts, my mind is already made up"; and 3.) is more concerned about getting a check in the box that says "Held a Public Hearing" than in actually hearing what the public has to say. As a result of these perceptions, the public may say (and, in fact, are saying at this time), "Why bother? This is all a sham. Why go all the way to Columbia to be ignored or trivialized?"

D.) Time Limit Impacts: As a reason for denying my original request, the "Commission Action" cites the premise that "Extending the time limit beyond three minutes for each person to provide testimony could result in some persons not being able to testify..." Then why not reduce the time limit to thirty seconds? This would certainly insure that every person who wants to testify would get to do so.

With the three (3) minute limit, as with lesser amounts, the value of the content of the testimony suffers greatly to the point of being useless.

Also, I would respectfully suggest that, if the discharging of the duty to hear the public on issues of importance to them requires a second (or third) meeting, then so be it.

E.) Public Attitude: Having participated in many similar public meetings where the public is given an opportunity to comment, I would suggest that, rather than a time limit, a simple admonition from the Chair at the outset of the meeting and repeated periodically during the meeting to 1.) "Please try to avoid unnecessary repetition of points already made"; and to 2.) "Please carefully form and consider your comments prior to coming to the witness stand out of respect for your fellow citizens." Since, in most cases, the public is both attentive and respectful, this approach generally alleviates any problem with everyone getting their chance to be heard.

F.) Existing Procedures: The "Commission Action" further says that an additional reason for denying my request is that, otherwise, the Commission would be voting against their own stated procedures. If, as I firmly believe, the procedure is unjust and unwarranted, then voting in a manner in opposition to the procedure is the responsible and proper thing to do.

G.) Role of the ORS: The "Commission Action" encourages me to "contact and work with the Office of Regulatory Staff (ORS) in this matter, since they are the statutory representatives of the public interest in utility matters". The implication of this comment by the PSC is that this will somehow fix the problem by getting the ORS to intervene in favor of or on behalf of my request.

I find, after discussions and long-time association with ORS personnel, that the ORS properly does not view the "public interest" as meaning that the ORS should necessarily agree wholeheartedly with individual members of the public, nor does the ORS view "representing the public interest" as a mandate to "stand in" for members of the public by presenting those member's input, regardless of what it may be.

In fact, on issues such as the matter at hand, members of the public will have widely differing reactions to the Joint Application because of the dramatically different results of its acceptance from place to place. For example, very cogent and supportable cases can be built which indicate that, in some areas, the Joint Application will inevitably result in very large rate increases (as much as 15%) for water and sewer service, while, in others, large decreases will occur with neither being justified and/or fair. And the ORS may justifiably have reactions that differ from any and all public reactions.

If the PSC Commissioners sincerely wish to hear what the public has to offer, I believe they will have to receive that directly - not second hand.

H.) Other Concerns: The "Commission Action" says that, "if they (a duly sworn witness or witnesses) request additional time, they're advised that they can file -- prefile -- their testimony and it would be added to the computer". It's not clear how one can prefile their testimony in the middle of giving it, nor how such an action will effect the impact, tenor, and understanding of points attempting to be made by the witness, except that the effect will be significant and damaging.

Further, what is meant by "added to the computer" is not at all clear. Having come from 32 years in the "computer" industry, I am aware just how misunderstood and misleading such use of the terminology can be.

Also, the "Notice of Informational Session and of a Public Night Hearing" regarding Docket No. 2014-399-WS issued by the Commission on 12/11/14 states unequivocally that "All testimony will be

given under oath..." It's not made clear how written, prefiled public testimony, whether filed before or after the fact, is placed "under oath".

It's also not clear whether the time required to take a proper oath is included in the three (3) minute time limit, since it could reasonably be considered an integral part of "testimony". If this is legally the case, then the oral presentation time limit is actually closer to two (2) minutes, adding to its inadequacy.

3.) Effects of Joint Application Approval: Previous communications to you on this matter have provided additional detail and comment on the specific negative effects which appear to be inevitable consequences of the approval of the Joint Application underlying Docket No. 2014-399-WS as currently conceived and proposed. Additions to and elaboration on these important negative impacts is also planned to be a primary subject of testimony on this matter.

4.) Summary: In summary, I believe that the three (3) minute limit on public hearing oral testimony is both unjust and unwarranted, and therefore, as called out in the referenced statute, illegal. I believe the limit should be abandoned completely in favor of reasonable admonitions and requests more in keeping with the objectives of a "Public Hearing", and the attitudes and interests of the public which you serve.

Thank you for your attention and consideration.

Donald G. "Don" Long
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